

REMARKS

Applicant wishes to thank the Examiner for the attention accorded to the instant application, and respectfully requests reconsideration of the application based on the remarks below.

Formal Matters

Claims 1, 3-9 and 11-17 are currently pending in the application.

Rejection of Claims under 35 U.S.C. § 103

Claims 1-17 are rejected under 35 U.S.C. § 103 as being unpatentable over Herz et al., U.S. Patent No. 6,571,279 (“Herz”) in view of Hall et al., U.S. Patent No. 6,026,375 (“Hall”), and further in view of Walter, U.S. Patent No. 6,334,110. This rejection should be withdrawn based on the comments and remarks herein.

Among the problems recognized and solved by Applicant’s claimed invention is a need for an advertisement providing system capable of pin-point distribution of advertisement data including calculating the effect of an advertisement based on the purchase activity before and after the advertisement’s distribution. This feature enables a company using the present invention to more clearly grasp the effect of its advertising by comparing purchase activity prior to and after offering advertising.

The Examiner states that Herz fails to teach “said means determining a contract link factor from a ratio of a purchase activity to a number of times of an advertisement distribution, and calculating the advertisement effect based on the contract link factor and a sales increase ratio of the purchase activity before and the contract link factor after the advertisement distribution”, but that Walter teaches a system that calculates the effectiveness of an

advertisement campaign using the sale increase ratio of purchase activity (i.e. units sold) before and after said advertisement distribution. Applicant respectfully disagrees.

Walter discloses that the number of units sold prior to the start of an advertising campaign could be available (Fig. 9). However, Walter defines a successful advertising event occurring when a customer browses the advertisement or buys the product advertised (column 7, lines 10-21). Walter does not disclose or suggest a contract link factor, that is, a ratio of purchase activity to number of times of advertisement distribution, and does not disclose or suggest a system that calculates the effectiveness of an advertising campaign using the sale increase ratio and the contract link factor, as recited in independent claims 1, 9, and 17.

It has been held by the courts that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See, *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). As illustrated above, the hypothetical combination of Herz, Hall, and Walter, in any combination, does not disclose or suggest a contract link factor and does not disclose or suggest each and every feature of the independent claims. Hence, *prima facie* obviousness has not been established. Claims 3-8 depend from claim 1, and claims 11-16 depend from claim 9, each dependent claim incorporating the novel and nonobvious features of its base claim. Accordingly, claims 3-8, and 11-16 are patentably distinguishable over the art of record in the application for at least the reason that independent claims 1 and 9 are patentably distinguishable over the art of record in the application. Claims 2 and 10 are canceled. Thus, applicant respectfully requests that this rejection be withdrawn.

Conclusion

Should the Examiner have any questions regarding this Amendment, or regarding the Application generally, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,


Katherine R. Vieyra
Registration No. 47,155

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530

KRV:vh